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April 25, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

RE: **Ex Parte Presentation**, Docket RM 8408, Docket 78-72 and Docket 80-286

Pursuant to 47 CFR Section 1.1206(a), Southwestern Bell Telephone Company (SWBT) submits the following in response to the February 24, 1994, ex parte presentation of AT&T to the Common Carrier Bureau. Six copies (two per each of the captioned dockets) are being submitted to the Secretary of the Federal Communications Commission in accordance with the Commission's rules.

On November 24, 1993, AT&T filed a Petition for Rulemaking regarding the allocation of Universal Service Fund (USF) costs among interexchange carriers (IXCs). Specifically, AT&T's petition proposed "that each IXC's USF payment be calculated on the basis of that carrier's relative share of total IXC gross revenues for the preceding calendar year. Implementation of such a mechanism will promote the public interest."[1]

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[1] In the Matter of MTS and WATS Market Structure and Amendment of Part 36 of the Commission's Rules and Establishment

AT&T has now changed its position, however, as evidenced by its February 24, 1994, ex parte meeting with the Common Carrier Bureau. AT&T now suggests that USF costs be allocated not only to IXCs but also to local exchange carriers (LECs).

AT&T's ex parte material claims that the use of presubscribed lines (PSLs) to allocate USF costs is inappropriate and that a new allocation method is necessary. AT&T suggests that the use of revenues is a more equitable allocator, and that now is the time to change the method used to allocate USF costs.

AT&T also states: "All parties who have weighed in on the Universal Service debate in general advocate a competitively neutral recovery mechanism."[2] AT&T claims that a competitively neutral mechanism already exists--the method used for allocation of Telecommunications Relay Services (TRS) costs. Southwestern Bell Telephone Company (SWBT) strongly disagrees that this method should now be used to allocate the USF.

By FCC Order, TRS costs are spread among all providers of interstate telecommunications services based on each carrier's relative share of total interstate revenues. SWBT does not believe that this method is appropriate to allocate TRS costs, much less USF costs. On April 15, 1993, Southwestern Bell Corporation (SBC) filed comments in CC Docket No. 90-571, stating that the only LEC interstate revenues used to calculate TRS costs should be

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of a Joint Board, CC Docket Nos. 78-72 and 80-286, Petition of American Telephone and Telegraph Company for Rulemaking (November 24, 1993).

[2] Id., AT&T Ex-Parte, filed February 24, 1994.

interstate intraLATA Message Telephone Service (MTS). However, the method adopted by the Commission also included interstate access charge revenues. SBC also filed a Petition For Reconsideration (PFR) of the Commission's Order in CC Docket 90-571, reiterating that the only LEC interstate revenues used to calculate TRS costs should be interstate intraLATA MTS.

AT&T's proposal to allocate USF contributions according to the present TRS allocation scheme would effectively establish a tax on LEC access services as inputs to IXCs' production of retail long distance service. Such a tax on an input to a production process establishes incentives for the producers (the IXCs) to substitute inputs which are not taxed for those which are. In this case, AT&T's proposal would strengthen the incentives for IXCs to deploy their own transmission facilities (vertically integrate their production processes) to avoid paying the tax on LEC-supplied access services. A tax on selected inputs to production processes can distort the efficient use of resources to produce consumer goods and services. Indeed, LEC access services may be a more efficient way to connect end users to IXCs' networks than IXC construction projects. However, IXCs can be expected to incur the capital investment necessary to vertically integrate their operations if the price of LEC-supplied access service is increased sufficiently. Such LEC access charge increases could result from requiring LECs to increase their revenue streams in order to meet USF and any other additional support payment obligations. This places LECs at an obvious competitive disadvantage, because it represents a double counting of revenues.

USF costs are currently allocated among all IXCs that use LEC switching facilities to provide interstate services and have at least .05 percent of the total PSLs to IXCs.[3] Each IXC's portion of the total USF is equal to its portion of total PSLs. While SWBT understands AT&T's desire to create a more equitable method for funding the USF among IXCs, SWBT does not support AT&T's proposal that USF funding be allocated in the same manner as TRS costs. Such a proposal is not only inconsistent with AT&T's previously requested relief but also directly undermines the purpose of the USF, which is to provide assistance to LECs serving customers in high cost areas.

Additionally, the concept of utilizing the revenues obtained from End User Common Line (EUCL) charges and Carrier Common Line (CCL) charges as part of the base for funding other support mechanisms is contrary to common sense. Revenues from CCL charges, for example, clearly an existing support mechanism, should not be utilized to fund another support mechanism, such as USF. Utilizing EUCL and CCL revenues (obtained to recover a portion of common line costs) to support a mechanism (USF) also designed to recover a portion of those same common line costs makes no sense. Moreover, though AT&T may argue that it is undesirable to tax IXCs to support the cost of common lines, it is even less desirable to

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[3] Commission Rule 69.5(d).

tax the providers of the investment capital required to deploy common lines. Clearly, AT&T's self-serving proposal is designed solely to reduce its payments to support funds at the expense of other efficient, logical and equitable funding methods.

If AT&T believes that the use of revenues is a more equitable allocator, and if the Commission deems a change is necessary, then only IXC revenues should be used to allocate USF costs. LECs should not be assessed any portion of USF costs. To do so would require LECs to serve high cost customers and also be assessed a portion of the fund designed to reduce the high costs. Such an approach would not be even remotely "competitively neutral," as AT&T claims.

AT&T's latest proposal represents a fundamental change well beyond the scope of the original petition, which sought only to redefine the method of allocating USF payments among IXCs. AT&T's attempt to include LECs in the USF support base is clearly beyond the scope of any interim change.[4]

Until a comprehensive examination of all universal service issues can be initiated, the Commission should consider only interim changes--measured steps within the bounds of current support mechanisms, including the bulk billing of Long Term Support (LTS) to IXCs. AT&T's latest proposal represents a significant and

[4] AT&T's original proposal could be called "interim," because it did not undermine or imbalance the overall USF support mechanism. AT&T's new proposal would clearly have such effect and clearly is not "interim." Similarly, LEC proposals to bulk bill Long Term Support to IXCs are "interim," because only the form of payments is changed, not the parties making the payments.

fundamental change that should only be considered in a comprehensive review of all aspects of the universal service issue.

Sincerely,

Karol M Sweitzer

Karol Sweitzer
Director-Federal Regulatory

CC: S. Tetreault
M. Nadel

CERTIFICATE OF SERVICE

I, Jane A. Flanakin, hereby certify that Southwestern Bell Telephone Company's "Ex-Parte in Docket Nos. RM 8408, 78-72, and 80-286" have been served this 25th day of April, 1994 by first class pre-paid postage to the persons on the attached list.

Jane Flanakin

Jane A. Flanakin

April 25, 1994

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